

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:08CV441

MARK KEVIN MILLER,)	
)	
Plaintiff,)	
)	
Vs.)	<u>ORDER OF DISMISSAL</u>
)	
RUTHERFORD COUNTY; PATRICIA)	
McDOWELL; and ROBERT W. WOLF,)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed December 1, 2008.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On December 1, 2008, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Defendants'

motion to dismiss. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 10 days of service of the Recommendation; the period within which to file objections expired on December 18, 2008. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation Defendants' motion be allowed.

IT IS, THEREFORE, ORDERED that Defendant's motion to dismiss is **ALLOWED**, and this matter is hereby **DISMISSED** in its entirety for failure to state a claim against any of the Defendants.

Signed: December 19, 2008



Lacy H. Thornburg
United States District Judge

